

REMARKS

Reconsideration and further examination of the above-identified application are respectfully requested in view of the RCE submitted herewith and in view of the amendments, and the discussion that follows. Claim 1-20 are pending in this application. Claims 1, 11 and 20 have been rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Claims 1-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Federov (U.S. Pat. No. 6,047,060) in view of Miloslavsky (U.S. Pat. No. 6,021,428) and further in view of Shaffer (U.S. Pat. No. 6,363,145). Claims 1, 11, and 20 have been amended for clarification. After a careful review of the claims and references, it is believed that the claims are in allowable form and a Notice of Allowance is respectfully requested.

Claims 1, 11 and 20 have been rejected because of indefiniteness for lack of written description of “monitoring a non-voice data session”. Claims 1, 11, and 20 have been amended to remove the term “non-voice.” It should be noted that the addition of the term “non-voice” was not intended as an added limitation but was merely intended to clarify that a “data session” is a session (i.e. an exchange of communications back and forth between the two parties) in the form of data, such as text messages, not analog voice signals. This is described for example in paragraph [0030] “In some embodiments, the monitoring may include monitoring contents of one or more of the various possible message types including text messages, data messages, and the like”, and at [0031] “Thus, the supervisor can view an ongoing data session similar to a data “tap””. Also see paragraph [004] “The communication between a caller and an agent may also be referred to as a data session, for example, the exchange of e-mail”. These examples from the specification make clear that monitored data sessions included e-mail exchanges, data messages, and text messages, which are clearly sessions exchanging data, and that this is fully described in the specification. Thus, all the claims are believed to comply with 35 U.S.C. §112.

Claims 1-20 were rejected as being obvious over Federov in view of Miloslavsky and Shaffer. Federov concerns a system and method to allow a supervisor to manually connect into and monitor telephone calls to and from a call center. Federov does not describe automatic monitoring of a data session between agent and caller, nor does Federov describe automatically engaging the supervisor in response to the monitoring. Shaffer describes automatic monitoring but only of voice and does not automatically engage the supervisor in response to the monitoring but requires the supervisor to select the option to establish monitoring after notification. Miloslavsky describes a system for routing incoming e-mails to the most appropriate agent.

Independent Claims 1, 11, and 20 claim automatic monitoring of a data session between a first and second party and conferencing, joining, or engaging a third party into the transaction as an additional participant automatically in response to the automatic monitoring. The call monitoring described in Col. 5 of Federov is manual monitoring of telephone conversations (i.e., "a supervisor at one station may monitor telephone conversations at another station"; -Abstract, lines 7-8) but is not automatic monitoring. Nor does Federov concern data sessions (e.g. made up of text messages, data messages, e-mail, etc.). Federov also does not teach automatic monitoring in which the supervisor is automatically engaged into the data session in response to the monitoring. The claimed monitoring automatically engages conferences or joins the supervisor to view an ongoing data session (see page 13, lines 1-3) after the automatic monitoring has detected a need to engage the supervisor. Thus, Federov does not teach automatic monitoring, does not concern data sessions and does not teach automatically conferencing or engaging the third parties (e.g. supervisor) in response to the automatic monitoring. In Federov, the supervisor must decide to listen in and must spend time manually "monitoring" a conversation himself without being automatically engaged in response to automatic detection of a problem by automatic monitoring. The Office Action concedes that Federov does not teach data sessions, automatic monitoring and automatic engaging.

The Office Action asserts that Miloslavsky discloses data sessions. Miloslavsky merely discloses routing of e-mails to agents. Thus Miloslavsky concerns the act of routing which occurs prior to the data session between the two parties. Miloslavsky thus merely establishes that incoming e-mails and routing of these to an agent in a call center was disclosed but does not teach or suggest that e-mails can be substituted for voice communications in an audio listening system such as Federov. The combination of Federov with Miloslavsky would simply provide a call center which can receive both voice and e-mail wherein the supervisor could decide to manually barge in to listen to the voice. Listening to the data messages such as e-mails would merely result in noise with no meaning to the supervisor. Thus, the combination of Federov with Miloslavsky is improper, and even if combined does not teach or suggest monitoring of e-mails.

The claims call for the third party (e.g. supervisor) to be automatically engaged, joined or conferenced in response to the automatic monitoring. The Office Action concedes that Federov and Miloslavsky do not teach automatic monitoring and engaging but that Shaffer does. However, Shaffer monitors only voice (Col. 2, lines 25-35) and further merely notifies the supervisor but does not automatically engage the supervisor into the transaction. Instead, a

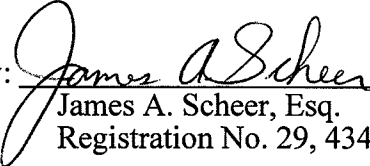
notification is sent to the supervisor who then must manually select from a number of options (see Col. 6, lines 33-52).

Shaffer does not teach or suggest automatically engaging the supervisor into the transaction as a participant but instead teaches merely notifying the supervisor and presenting options that the supervisor can subsequently select. The Office Action cites Shaffer at Col. 5, lines 58-65 as disclosing engaging the supervisor within the monitoring session. However, the claim calls for conferencing, joining or engaging the third party into the transaction as a participant. The cited passage of Shaffer discloses "If demand on the first agent's terminal's processor resources increase...the monitoring session data can be transmitted to the supervisor terminal 14 or the gateway 16 where the monitoring session can be continued." This merely describes using the supervisor terminal computer or the gateway computer to do the processing to automatically monitor the voice session, but does not describe engaging the supervisor into the transaction as a participant in the transaction. The supervisor himself is not engaged in the transaction as a participant, only the processing power of the supervisor terminal is being used, not to engage the supervisor, but to perform the preceding step of automated silent monitoring. Further, a complete transfer of the automatic monitoring function from one terminal to another is described, not the joining or engagement of an additional participant into the transaction. Accordingly, independent claims 1, 11, and 20 are believed to be distinguishable over the combination of Federov, Miloslavsky, and Shaffer because none of these references discloses monitoring data sessions and none discloses automatically engaging the supervisor into the transaction in response to the automatic monitoring. Therefore, independent Claims 1, 11, and 20 are believed to be neither anticipated nor rendered obvious by any combination of the cited references. In addition claims 2-10, and 12-19 are dependent upon now allowable Claims 1, 11, and 20, and therefore are also believed to be in allowable form.

As discussed above, claims 1-20 are now in allowable form and are not anticipated or rendered obvious by any combination of the cited references. Therefore, allowance of claims 1-20 is believed to be in order and such action is respectfully requested. Should the Examiner be of

the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,

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